

REMARKS

In the Office Action, the Examiner noted that claims 1-10 are pending in the application and that claims 1-10 are rejected. By this response, claim 1 has been amended, and new claims 17-24 have been added. Thus, claims 1-24 are pending in the application.

Rejections Under 35 U.S.C., §102

Claims 1, 3, 5, 7 and 10 are rejected under 35 U.S.C. §102(b) as being anticipated by *Ramirez, et al.* (U.S. Patent 5,934,472). Claims 1, 2 and 9 are rejected under 35 U.S.C. §102(b) as being anticipated by *LaFleur* (U.S. Patent 5,224,623). Independent claim 1 has been amended. Accordingly, dependent claims 2-10 are also amended by way of dependency on amended claim 1. Accordingly, claims 1-10 are now believed to be allowable over the prior art of record, and action to that end is respectfully requested.

Rejections Under 35 U.S.C., §103

Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Ramirez, et al.* Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Ramirez, et al.* or *LaFleur* (U.S. Patent 5,224,623) in view of *Reskow* (U.S. Patent 5,503,858). Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over *Ramirez, et al.* in view of *Corelli* (U.S. Patent 3,659,741). Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable

over *LeFleur* (U.S. Patent 5,224,623). Independent claim 1 has been amended. Accordingly, dependent claims 2-10 are also amended by way of dependency on amended claim 1. Accordingly, claims 1-10 are now believed to be allowable over the prior art of record, and action to that end is respectfully requested.

Applicant furthermore wishes to comment on *Reskow*. *Reskow* teaches access channels 50, 52, 54 and 56 to facilitate finger or utensil access to food 58 positioned within food retaining chambers 18 and 20. Access channels 50, 52, 54 and 56 appear to have inclination angles relative to the base 12 that form an obtuse angle that is greater than the corresponding obtuse angle formed between side walls 14, 16 and base 12. Nowhere does it appear that the inclination angles of side walls 14, 16 and access channels 50, 52, 54 and 56 provide alignment structures during trimming of the tray from a sheet in which the tray has been thermoformed. In fact, the purpose for access channels 50, 52, 54 and 56 is for tactilely manipulating and accessing food, not for resolving an alignment problem during a trim operation. Accordingly, such structures address a different problem and such structures do not correspond with those provided within the present claims.

Additionally, Applicant desires to comment on *Corelli*. Nowhere does *Corelli* teach alignment structure as is claimed in the pending claims 1-24. Instead, *Corelli* teaches the provision of an upper chamber containing food and ice and a lower well for receiving water from the ice which is separated by a perforated plate to ensure that perishable food products are kept in constant

contact with preserving ice and out of contact with water. Furthermore, *LaFleur* teaches a foam plastic container having a sloping side wall that includes at least one substantially spirally or helically-circumferentially wound rib which includes a portion 32 extending inwardly and a portion 34 extending outwardly from the side wall 28. Nowhere does *LaFleur* appear to teach the alignment structures recited in pending claims 1-24.

Ramirez, et al. teaches a plastic foam processor tray having a base, side walls and corners that are integrally and continuously formed without interruptions to define a smooth inner surface of the tray and a volume for accommodating the goods to be packaged therein. Accordingly, *Ramirez, et al.* teaches the provision of a smooth inner surface on a tray which teaches away from the structure recited in pending claims 1-24.

Applicant's design intends to provide an alignment structure on an inner surface of the tray. *Ramirez, et al.* teaches away from using an alignment structure on an inner surface of the side wall.

A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant. (See *In re Gurley*, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994).)

A prior art reference may be considered to teach away when "a person of ordinary skill, upon reading the reference, would be discouraged from following

the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant." *In re Gurley*, 27 F.3d 551, 553, 31 USPQ 2d 1130, 1131 (Fed. Cir. 1994).

CONCLUSION

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance, and action to that end is respectfully requested. If the Examiner's next anticipated action is to be anything other than a Notice of Allowance, the undersigned respectfully requests a telephone interview before issuance of any such subsequent action.

Respectfully submitted,

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Application Serial No. 09/866,088
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Assignee None
Group Art Unit 3727
Examiner Stephen J. Castellano
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Title: "A Thermal Plastic Expanded Foam Meat Tray and Method and
Apparatus for Precisely Trimming the Meat Tray From An Expanded
Foam Web"

**VERSION WITH MARKINGS TO SHOW CHANGES MADE ACCOMPANYING
RESPONSE TO APRIL 26, 2002 OFFICE ACTION**

In the Specification

The replacement specification paragraphs incorporate the following amendments. Underlines indicate insertions and ~~strikeouts~~ indicate deletions.

Paragraph [0024] on page 9 has been amended as follows:

[0024] Preferably the alignment corner surfaces 42 are ~~convex~~ concave curved as seen in the top views Figures 3 and 7. Preferably the alignment corner surfaces are curved in an arc of more than 90 degrees, but less than 180 degrees, with a radius of curvature 44 about a center of curvature 46 (Fig. 7). Preferably each alignment corner surface 42 is conical in shape having a wide curved arc in the horizontal direction and a

steep inclined shallow conical wall element in the vertical direction.

Paragraph [0033] on pages 12-13 has been amended as follows:

[0033] Further movement of the punch platen 70 moves the aligned meat tray 10 into the die opening 82 with the lip 30 engaging the die element 80, causing the alignment fixture 84 to move from the extended position to the retracted position while maintaining alignment, and brings the cutting edges 76 and 81 into cutting relationship with the web 8 to trim the lip 30 and sever the meat tray from the web 8. Once the trays 10 are severed from the web 8, the coil springs 108 bias the alignment fixture ~~184~~ 84 outward from the plate 74, pushing the severed meat tray 10 into the pass-through opening 82 and onto an exit conveyer (not shown).

In the Claims

The claims have been amended as follows. Underlines indicate insertions and ~~strikeouts~~ indicate deletions.

1. A thermal plastic expanded foam rectangular meat tray trimmed from a thermal plastic expanded foam web, comprising:

a substantially rectangular bottom wall;

side walls extending upward and outward from the bottom wall integrally interconnected to each other at four corners;

each of the side walls having an inclined lower section and an upper section that extends upward terminating in a lip that extends outward around the periphery of the tray; and

the upper wall section having internal inclined corner surfaces extending upward and outward to the lip at the four corners, each corner surface subtending an angle greater than an angle subtended by the respective corner and specifically provided to receive an internal complementary mating corner alignment fixture to maintain the tray accurately aligned at the corners as the tray is being trimmed from the thermal plastic expanded foam web, and each inclined corner surface forming an obtuse angle with the bottom wall that is less than a corresponding obtuse angle formed between a corresponding lower wall section and the bottom wall.

have these
have opposite
meanings

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